

MEDIA LAW
J350F (Unique No. 08210)
J395 Graduate course (Unique No. 08365)
Spring 2017

Class: T-Th 8:00-9:30 a.m., BMC 1.202

Lecturer: David H. Donaldson, Jr.

Office: BMC 3.332

Office Hours: Tuesday 10 am-11 am or by appointment

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Teaching Assistants:

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Office location and hours: Their office is among the cubicles at BMC 3.326. Office hours for Omar are Monday at 10 am; office hours for Ori are Tuesday from 9:30-11. or with either by appointment.

COURSE DESCRIPTION:

Media Law is designed to (1) introduce students to First Amendment doctrines and issues concerning freedom of expression, (2) explain applications of the law to the work of journalists and communicators, and (3) engage students in a conversation about the ethical and political issues facing the news media.

Students will learn to (1) place contemporary freedom-of-expression controversies in philosophical and historical contexts to understand how legal doctrines have developed; (2) use legal reasoning to predict how those doctrines would apply in new situations; (3) assess the interests at stake in common ethical controversies; and (4) use moral reasoning to apply ethical guidelines in new situations.

This course carries the Ethics and Leadership flag. Ethics and Leadership courses are designed to equip you with skills that are necessary for making ethical decisions in your adult and professional life. You should therefore expect a substantial portion of your grade to come from assignments involving ethical issues and the process of applying ethical reasoning to real-life situations.

TEXTBOOKS:

Robert Trager, Susan Dente Ross, and Amy Reynolds, *The Law of Journalism and Mass Communication*, 5th ed. (Thousand Oaks, CA: CQ Press, 2016)

Weston, Anthony, *A Practical Companion to Ethics*, 4th ed. (New York: Oxford University Press, 2006).

We will also study the film *State of Play* starring Russell Crowe, Ben Affleck, Helen Mirren, and Rachel McAdams

OTHER READINGS:

--Stephen J.A. Ward, "Digital Media Ethics."

<http://ethics.journalism.wisc.edu/resources/digital-media-ethics/>

--Josh Stearns, "Acts of Journalism: Defining Press Freedom in the Digital Age,"

October 2013

http://www.freepress.net/sites/default/files/resources/Acts_of_Journalism_October_2013.pdf

ATTENDANCE:

Regular attendance at all class meetings is expected. No attendance records will be kept. However, the scheduled exams are based in part on lectures and discussions, and it will be difficult to earn a respectable grade on those exams without coming to class on a regular basis. The unscheduled in-class assignments are designed to encourage you to come to class on time and stay awake during class.

Many times in class I will describe matters that will be on tests that will not show up in lecture notes. My practice is to start the class with review questions from the previous lecture that are often very similar to questions that appear on the tests. **YOU WILL DO BETTER IF YOU COME TO CLASS.** It will be difficult to earn a respectable grade without coming to class on a regular basis.

TARDINESS: We all have to get up in the morning to be here, so don't be late, you will likely miss something important. If you do come in late, slip quietly in one of the chairs in the front.

NO CELLPHONE, BLACKBERRY, ETC. USE OR TEXTING DURING CLASS—TURN THEM OFF!

You may have your computer open for note-taking, but please disable any texting, IM, Facebook, or other messaging capability. This material can be difficult—I need your full attention.

GRADES:

Your final grade will be built using:

1. **Three best tests**, 20 points each for a total of 60 points. (Some tests may have bonus questions that will make them worth 21 or 22 points)
2. **Four best take-home writing assignments**, 9 points each for a total of 36 points.
3. **16 best unscheduled assignments**, $\frac{1}{4}$ point each for a total of 4 points.

GRADING SCALE:

As = 90-100 points (A- is 90-92.99, A is 93-100)

Bs = 80-89 points (B- is 80-82.89, B is 83-86.89, B+ is 87-89.99)

Cs = 70-79 points (C- is 70-72.5, C is 73-76.89, C+ is 77-79.89)

Ds = 60-69 points (D- is 60-62.89, D is 63-66.89, D+ is 67-69.5)

F = 59 points or less.

WARNING: It is not my practice to round up with a few exceptions. To go from a D+ to a C- and from a C- to a C I will round up from .5. After that at most I will round up

1/10th of one point (e.g., 79.90 to 79.99 will be a B-), but I will not round up to an A- or an A. Those you have to earn.

TESTS:

There will be four closed book tests during the semester composed of three tests and a final (final is on Thursday May 11, 9-12 pm). Because this is a T-Th class and tests can take up lecture time, on test days I may lecture for 30 minutes on new topics that will not be on the test then give you an hour to complete the test. (This will also give those whose alarms never go off on test day a chance to make it to the test on time.)

We count your three best test grades. This means you may take all three tests and the final and drop your lowest grade or miss one test without penalty. It is my practice to include a bonus question with most tests—this does not disadvantage anyone if you choose not to answer the bonus question or you get it wrong (I don't grade on a curve), but if you get all or in some cases even most of the bonus questions it can significantly improve your grade.

Each of the first three tests will cover material from the lectures and readings for that segment of the course. The fourth test, during the final exam period, will be comprehensive. The final usually includes a bonus question that can add points to your overall grade even if your final grade isn't one of your four best grades.

Because you can skip one of the tests, no make-up tests will be given unless the absence is for an official UT function. That means if you blow off the first test and then are legitimately sick for the final, you're out of luck. Common sense suggests you should take all the tests. If special circumstances arise, see me as soon as possible.

TAKE-HOME WRITING ASSIGNMENTS:

There will be five take home writing assignments. On the days marked on the schedule I will give you some questions based on the material covered in recent lectures, discussions, and readings. Each writing assignment will include two questions, one legal and one ethical.

You will write a one-page answer on each question to be turned in the same day the following week in class. Repeat-Bring your assignment response to class. Do not email assignments to the professor or a TA unless there's a real emergency that prevents you from coming to class. In that case, send it directly to me, not the TAs, with an explanation for why you could not turn it in at the class. I will make the judgment whether the emergency was sufficient. If you are given permission to email (or want to make a plea to be allowed to email), get it to me by noon on the day the assignment is due to avoid a late penalty. Papers provided after noon on the due date will be assessed a late penalty if I choose to accept them. Papers provided after 11:59 pm on the day they are due will not be accepted.

Your answers must be typewritten and double-spaced on a single page for each question (200-300 words). Don't write more than that; we will not read beyond the first

page for each question. Use 1-inch margins, 12-point type, and **Times New Roman** font. Put your name, EID, and the assignment number at the top of each page and staple them together. Do not use a title page. Do not use colored paper. Do not use exotic fonts. Please note: if you do not follow these instructions you will lose points off your grade on that assignment.

No extra research beyond the textbook and the information provided in class is necessary to write these assignments. Do not use footnotes. Mention court cases if they are relevant, but you need not provide formal citations for cases.

Answer the question in your own words. In formulating your answer, you may talk with others. But the final answer and writing must be your own. Plagiarism -- of published material or another student's work -- will be punished in accordance with university regulations and the 8th Amendment to the U.S. Constitution. For more on academic integrity and plagiarism, see http://deanofstudents.utexas.edu/sjs/acint_student.php

Five take home writing assignments will be distributed during the semester. Your grade will be based on the best four assignments you turn in. You may complete all five assignments and use the four best grades, or you may complete only four and use those grades. Except as noted above, no late work will be accepted, or, if special circumstances justify it, it may be accepted but with a penalty. If special circumstances arise, talk to me as soon as possible.

The [Moody College Writing Support Program](#), located in BMC 3.322, offers one-on-one assistance without charge to students seeking to improve their professional writing in all fields of communication. They have specialists in Journalism, RTF, CSD, CMS, and PR and Advertising. In addition, they offer workshops to strengthen core writing skills in each field and to inspire students to strive for excellence. Students may book half-hour appointments on their website or drop in for assistance during all stages of the writing process.

Keep copies of all assignments you turn in and keep your graded assignments until the end of the semester. A lot of paper changes hands in a class this large, and sometimes papers get lost. If there are discrepancies between our records and yours, you need to have your papers to help us resolve the problem. For example, if you turned in a paper but you don't see a grade recorded for you when the assignments come back, then contact a TA so they can look into the situation. Have another copy available in case they cannot find it. But note: we log in each paper when it is turned in—don't try to fool us. Don't wait until the end of the semester to bring up a missing grade; let us know as soon as you think it has happened.

If you don't think your grade on an assignment is fair, you can ask for an explanation. The first step is to talk with the TA *within one week* after the assignments are returned. If you want a formal re-evaluation of your grade, write a short (one paragraph to one page) explanation of why you think a higher grade is warranted. Be specific. If you can't work

it out with the TA, ask the professor to resolve the dispute. If you wait longer than a week, we will not review your paper. Papers cannot be rewritten for a higher grade.

IN-CLASS ASSIGNMENTS:

During some class sessions, there will be an unscheduled assignment completed on 3x5 notecards that you will bring to class. You will put your name and EID No. on the card along with your answer to the question or questions I pose in class.

There will be 20 of these unscheduled assignments throughout the semester (we only have a total of 27 non-test days, so do the math), and your 16 best scores will count toward your final grade. Each assignment will include a question that will draw on the material from recent classes and readings. Each correct answer is worth 1/4 point toward your final grade. The assignments can come early, middle, or late in the class time. If you miss an assignment, you miss that assignment; no makeups.

STUDY TIPS:

Most students find this course to be interesting and valuable. At the same time, law can be a formidable subject. Success in this course will require considerable thought on your part, and memorization alone will be insufficient to meet the course objectives. Here are some suggestions:

- Study your assigned readings prior to the class session at which they will be discussed. Make margin notations as you read, and be prepared to participate in class discussion.

- Take thorough notes in class. Pay attention to the questions I ask at the beginning of class, often they are questions you will see on the test for that section or the final. Those questions will not be posted on Canvas. If you must miss a class, make sure you obtain the notes from a friend. Review the materials I post on Canvas. Outline your notes and reading material prior to exams.

UNIVERSITY OF TEXAS HONOR CODE: The core values of The University of Texas at Austin are learning, discovery, freedom, leadership, individual opportunity, and responsibility. Each member of the university is expected to uphold these values through integrity, honesty, trust, fairness, and respect toward peers and community.

NOTE FOR STUDENTS WITH DISABILITIES: The University of Texas at Austin provides upon request appropriate academic accommodations for qualified students with disabilities. For more information, contact the Office of the Dean of Students at 471-6259, 471-4641 TTY.

RELIGIOUS HOLY DAYS: I don't think any of our tests fall on any religious holy days, and the written assignments allow a week to get them done, so this shouldn't apply. By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss an examination or a work assignment (although I can't imagine you will) to observe a religious holy day, I will give you an opportunity to complete the missed work within a reasonable time after the absence.

ABSENCE FOR MILITARY SERVICE: In accordance with section 51.9111 of the Texas Education Code, a student will be excused from attending classes or engaging in other required activities, including exams, if he or she is called to active military service of a reasonably brief duration. See me if this applies to you, and thank you for being one of those who protects the freedoms we discuss in this class.

USE OF E-MAIL FOR OFFICIAL CORRESPONDENCE: Email is recognized as an official mode of university correspondence; therefore, you are responsible for reading your email for university and course-related information and announcements. You must keep the university informed about changes to your e-mail address. You should check your e-mail regularly and frequently—I recommend daily, but at minimum twice a week—to stay current with university-related communications, some of which may be time-critical. You can find UT Austin’s policies and instructions for updating your e-mail address at <http://www.utexas.edu/its/policies/emailnotify.php>.

SCHEDULE **J350F/Fall 2017**

WEEK 1: January 17, 19

...**topic:** Introduction to Law; U.S. legal system

...**reading:** Chapter 1

WEEK 2: January 24, 26

distribute Writing Assignment #1 on Tuesday January 24

...**topic:** U.S. legal system, cont’d: free speech, First Amendment, prior restraint, and balancing

...**reading:** Chapter 2

WEEK 3: January 31, February 2

****Writing Assignment #1 due on Tuesday January 31***

...**topic:** free speech, First Amendment, prior restraint, and balancing, cont’d; begin Chapter 3-Speech Distinctions

...**reading:** Chapter 2, 3

WEEK 4: February 7, 9

...**topic:** Incitement and Risks to Public Safety

...**reading:** Chapter 3

***test #1 on Thursday, February 9 (Will only cover material from beginning of class through Chapter 3, not Chapter 4 or libel law)**

WEEK 5: February 14, 16

...**topic:** Begin libel; fairness and accuracy

...**reading:** Chapter 4, 5 *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) (Insert this address into your web browser to call up the case:

caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=376&invol=254 or just do a web search for *New York Times v. Sullivan*)

WEEK 6: February 21, 23,

**** distribute Writing Assignment #2 on Tuesday February 21***

topic: libel; fairness and accuracy -- both old and new media
reading: Chapter 4, 5

WEEK 7: February 28, March 2

topic: more libel/fairness; privacy and the press

reading: Chapters 4, 5, and 6

****Writing Assignment #2 due on Tuesday, February 28***

WEEK 8: March 7, 9

distribute Writing Assignment #3 on Thursday March 9

topic: more privacy and the press; other causes of action based on publication reading: Chapter 6.

WEEK 9: UT Spring Break March 13-18

WEEK 10: March 21, 23

***Writing Assignment #3 due on Tuesday March 21**

***test #2 on Thursday March 23 (will cover libel and privacy)**

topic: Newsgathering, access to information; reporter's privilege; free press/fair trial

reading: Chapters 7, 8, and 9

WEEK 11: March 28, 30

topic: more free press/fair trial; journalists' privilege/confidential sources; ethics

reading: Chapter 7-8-9, cont.; Stearn, "*Acts of Journalism: Defining Press Freedom in the Digital Age*," Weston.

WEEK 12: April 4, 6

distribute Writing Assignment #4 on Thursday April 6

topic: ethics

reading: Ward, "*Digital Media Ethics*"; SPJ Code of Ethics; Weston; Cowboy Ethics; We will also discuss the film *State of Play* starring Russell Crowe and discuss some of the ethical questions it presents. Might be a good idea to watch it if you haven't already.

WEEK 13: April 11, 13

***Writing Assignment #4 due on Thursday, April 13**

topic: copyright; trademark; commercial speech, Lanham Act, advertising

reading: Chapters 12, 13

WEEK 14: April 18, 20

topic: commercial speech, advertising continued; broadcasting and cable regulation; cyberspace and government regulation

reading: Chapter 13; Chapter 10

WEEK 15: April 25, 27

***test #3 on Tuesday April 25**

distribute assignment #5 on Tuesday April 25

topic: broadcasting and cable regulation; cyberspace and government regulation cont'd

reading: Chapters 10

WEEK 16: May 2, 4

***Writing Assignment #5 due on Tuesday, May 2**

...**topic:** obscenity/pornography

reading: Chapter 11

FINAL EXAM (test #5): Thursday May 11, 9:00-12:00 pm Noon (Place to be determined)

SOME ADVICE ON WRITING J350F TAKE-HOME ASSIGNMENTS

1. **ANSWER THE QUESTIONS YOU ARE ASKED.** This seems obvious enough, but in past semesters this is where students have lost the most points. Don't begin writing until you are sure you understand what you are being asked to write about. If you are unclear about the intent of the question, ask the professor.

2. **DON'T ANSWER QUESTIONS THAT AREN'T ASKED.** Students sometimes can ramble on about things that aren't directly related to the question. Don't pad your answer with unrelated information.

3. **DON'T TURN IN MORE THAN ONE PAGE FOR EACH QUESTION.** If you think you need more space to answer the question, you probably don't understand the question. Read #1 and #2 again.

4. **DON'T ASSUME THE TA KNOWS WHAT YOU ARE TALKING ABOUT.** Explain things clearly in your answer. Otherwise, we'll assume you don't know what you are talking about. The assignments are designed to allow you to demonstrate what you understand about a particular aspect of communication law. So, demonstrate it.

5. **DON'T TURN IN LESS THAN A FULL PAGE FOR EACH QUESTION.** If you think you have answered the question in a half page, you probably have not fully explained yourself. Read #4 again.

6. **WRITE IN COMPLETE SENTENCES.** Don't just list elements of your answer or jot down sentence fragments. Quality of writing counts. (A lot)

7. **RUN IT THROUGH YOUR SPELL-CHECKER/GRAMMAR CHECKER.** Be sure that you haven't misspelled any words or made any obvious grammatical mistakes. You are taking a journalism course, and I am a very severe and unforgiving editor on such matters. In real life thousands (sometimes millions) of people would see your mistakes when published; let's stop them now. If you need additional help, or maybe just another set of eyes to look over the paper, consider consulting the Undergraduate Writing Center at Flawn Academic Center 211.

7. **REMEMBER THE RULES.** Use a 12-point type, Times Roman font, and 1-inch margins. You will lose points if you don't follow these rules.

8. DON'T BLOW OFF THE FIRST ASSIGNMENT. You need only four, but if you skip the first one you won't have any wiggle room at the end of the semester. If you don't write the first one and are sick one week at the end of the semester, don't expect a break.

Useful web sites

Texas Open Meetings Act

http://www.oag.state.tx.us/opinopen/om_easy.shtml

Texas Public Information Act

http://www.oag.state.tx.us/opinopen/or_easy.shtml

Reporters Committee for Freedom of the Press

<http://www.rcfp.org/>

National Security Archive

<http://www.gwu.edu/~nsarchiv/>

Freedom of Information Center

<http://www.missouri.edu/~foiwww/>

Society of Professional Journalists

<http://www.spj.org/>

Committee to Protect Journalists

<http://www.cpj.org/>

Reporters Without Borders

<http://www.rsf.org/>

World Press Review

<http://www.worldpress.org/>

Student Press Law Center

<http://www.splc.org/>

FindLaw

<http://www.findlaw.com/>

Legal Information Institute

<http://www.law.cornell.edu/>

Oyez Project (U.S. Supreme Court news and links)

<http://www.oyez.org/oyez/frontpage>

Ethics codes online

Society of Professional Journalists

<http://spj.org/ethics.asp>

Associated Press Managing Editors

<http://www.apme.com/ethics/>

American Society of Newspaper Editors

<http://www.asne.org/kiosk/archive/principi.htm>

Radio-Television News Directors Association

<http://www.rtnda.org/ethics/coe.shtml>

National Press Photographers Association

<http://www.asne.org/ideas/codes/nppa.htm>

Public Relations Society of America

http://prsa.org/_About/ethics/

Movies with Journalism and Ethics Themes

All the President's Men (1976)

Absence of Malice (1981)

The People v. Larry Flynt (1996)

Shattered Glass (2003)

Good Night, and Good Luck (2005)

State of Play (2009)

Spotlight(2015)

Additional Requirement for Graduate students

In addition to meeting all of the requirements of the undergraduate course, graduate students in J395 must complete a special project to my satisfaction. Your number grade for the course will be determined by the method outlined for the undergraduate course, but you cannot pass unless you successfully complete the special project.